

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIELLE SARMIENTO, et al.,
Plaintiffs,
v.
RUBY MARQUEZ, et al.,
Defendants.

Case No. 21-cv-06712-PJH

**ORDER SETTING CASE
MANAGEMENT CONFERENCE AND
DIRECTING PLAINTIFFS TO SERVE
DEFENDANTS**

Before the court is the recommendation of Magistrate Judge Cousins to dismiss the above-captioned case for failure to prosecute and failure to serve. See Dkt. 8, 9.

The complaint in this case was filed in August 2021. See Dkt. 1. Plaintiffs did not serve the complaint on defendants, nor did plaintiffs respond to any of the court's communications, including communications about the initial case management conference in December 2021. See Dkt. 8.

As a result of plaintiffs' failure to respond and failure to consent to magistrate judge jurisdiction, Magistrate Judge Cousins issued an order requesting reassignment to a district judge, and further recommending that the case be dismissed without prejudice for failure to serve defendants under Federal Rule of Civil Procedure 4(m) and failure to prosecute the case. See Dkt. 9 at 2. The order gave parties 14 days to file objections to the recommendation. Id.

Shortly after that order issued, plaintiffs' counsel made a number of filings. In addition to filing a case management statement, plaintiffs' counsel also filed objections to the previous order, explaining that a "technical, website error prevented plaintiffs' counsel

1 from receiving court notices.” Dkt. 14 at 2. The court accepts plaintiffs’ counsel’s
2 proffered reason for the delay, and thus declines to dismiss this case either for failure to
3 serve or for failure to prosecute.

4 Plaintiffs further state that they “remain ready to serve defendants as soon as
5 possible.” Dkt. 14 at 4. Indeed, plaintiffs’ counsel filed a proposed summons, which has
6 now been issued. See Dkt. 15, 16. Accordingly, plaintiffs are directed to serve the
7 complaint on defendants no later than **January 21, 2022**. The court will then conduct a
8 case management conference on **March 17, 2022** at 2:00 p.m. See also Dkt. 17.

9
10 **IT IS SO ORDERED.**

11
12 Dated: January 7, 2022

13 /s/ Phyllis J. Hamilton

14 PHYLLIS J. HAMILTON
15 United States District Judge
16
17
18
19
20
21
22
23
24
25
26
27
28